IN THE COUNTY COURT OF VICTORIA
AT MELBOURNE
CRIMINAL DIVISION

Revised
Not Restricted
Suitable for Publication

Case No. CR-23-01945

DIRECTOR OF PUBLIC PROSECUTIONS

v

WATTS, Rhett

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JUDGE:	His Honour Judge Palmer
WHERE HELD:	Melbourne
DATE OF HEARING:	1 July 2024
DATE OF SENTENCE:	25 July 2024
CASE MAY BE CITED AS:	DPP v WATTS
MEDIUM NEUTRAL CITATION:	[2024] VCC 1120

REASONS FOR SENTENCE

Subject:	Criminal Law - Sentence
Catchwords:	Obtain financial advantage by deception – Employment with Department of Education as School Principal – Employed on basis of falsified documents and false declarations on resume and job application – Serious offending – Early plea of guilty – Breach of trust – No criminal record – Community corrections order – Restitution order.
Legislation Cited:	*Crimes Act 1958* (Vic)
Cases Cited:	*Taylor v The Queen* (2019) 59 VR 163; *DPP v Lennie* [2021] VCC 268
Sentence:	12 month Community correction order – Restitution order of $178,749.26.
6AAA:	18 months imprisonment with a non-parole period of 12 months

APPEARANCES:	Counsel	Solicitors
For the DPP	Mx Connor Rattray	Office of Public Prosecutions Victoria
For the Accused	Mr Kyle McDonald	Sher Criminal Lawyers

HIS HONOUR:

Circumstances of offending[1]

1 Rhett Watts, in January 2005 you became a qualified teacher, registered with the Victorian Institute of Teaching, and were employed by the Department of Education at the Marnebek School in Cranbourne.

2 In 2016 you applied for the position of Assistant Principal at the school. In your application you included some false information, including claims that you had been employed as a teacher in 2004 at Karingal College, and had been awarded a Masters in Specialist Education from the University of Wollongong and a Masters of Science from the University of Southampton. Your application was successful, and you were appointed to the position in January 2017.

3 You told your counsel that you had been put in touch with a person in Queensland who could help you with your resume, and that this person had suggested that you enhance your application with the false degrees. You had, you told your counsel, gone along with this suggestion. The person in Queensland had then fabricated the supporting documents.

4 In 2018 you applied for the position of Principal at Katandra School in Ormond. This time, your application also included the claim that you were only four weeks away from completing a Masters of Business Administration at Griffith University. The five dot points you had written about your year as a teacher at Karingal College in 2004 had now expanded to a full page of unfounded claims. Your application was again successful.

[1] The offending is set out in the *Amended Summary of Prosecution Opening* (28 June 2024). I have also read and taken into consideration *Submissions for the Offender* (24 June 2024), together with its attachments; *Prosecution Outline of Submissions on Sentence* (28 June 2024); *Apology Letter* (undated); Pamela Matthews, *Confidential Court Report* (13 June 2024); and bundle of character references.

5 In 2020 you applied for the position of Principal at Frankston High School. Your application included the same false claims. One of the panel members had been the Assistant Principal at Karingal College in 2004, and had no memory of you working there. And thus, your deceptions unravelled.

6 For some time, you sought to deny and obfuscate. You resigned from your position at Katandra College in April 2021. You eventually accepted your guilt prior to a committal mention in July 2023.

7 You have pleaded guilty to one charge of obtaining financial advantage by deception, contrary to s 82(1) of the *Crimes Act 1958*. The maximum penalty for this offence is 10 years imprisonment.

8 Your counsel submitted that the appropriate sentence was a community correction order (**CCO**). The prosecution accepted that a CCO is within range. Accordingly, the primary issue for me in this plea is determining whether I agree with the parties, and – if I do – what conditions a CCO should include.

Objective seriousness and current sentencing practice

9 I find that your offending was serious, but not at the highest level of seriousness for offending of this kind:

a. You repeated and embellished your deceptions during three separate application processes from 2016 to 2020;

b. By your plea of guilty you acknowledge that your deception played a causative role in you being appointed to positions at Marnebek College and Katandra School;

c. You were paid a total of $697,747.63 during the more than four years you were employed in those two positions (which is approximately $230,000 more than you would have been paid had you remained employed as a teacher);

d. Although the prosecution accepts that you were not motivated by greed, it alleges – and I accept – that you were motivated by ego, and the desire for attention and authority; and

e. Your deceptions involved a breach of trust to your employer.

10 In sentencing you, I am required to take into account current sentencing practice. Both parties agreed that the most relevant comparators are the decisions in *Taylor v The Queen* (2019) 59 VR 163 and *DPP v Lennie* [2021] VCC 268. In both cases, the offender had been registered as a teacher on the basis of false declarations. In my view, your offending is significantly less serious than the offending in *Taylor*, and of a similar level of seriousness to the offending in *Lennie*. In *Lennie*, where there were also weighty matters in mitigation, the court imposed a CCO.

Personal circumstances and other subjective matters

11 You were born in 1980 and are now 43 years of age. You had a happy and loving childhood, growing up first in the Adelaide Hills, and then rural South Australia and Queensland. You were diagnosed with ADHD as a child. You realised you were gay when you were around 15 years old, but out of fear of bullying denied this to your family and friends for many years. You do not drink, smoke or use drugs. You have no prior criminal history.

12 You are passionate about specialist education. As a result of your deceptions, the career you had spent many years developing is no longer open to you. You are currently working in customer relations for Dan Murphy's.

13 You indicated your intention to plead guilty at an early stage of the proceedings. Your plea saved the courts, witnesses, prosecuting agencies and the community as a whole time, money, inconvenience and uncertainty. This is particularly important at a time when the courts are still dealing with the after-effects of the pandemic. I also accept that your plea indicates remorse. I will therefore reduce your sentence because of your plea of guilty.

14 You have also consented to a restitution order in the amount of $178,749.26, which I accept as a further indication of remorse.

Consent to CCO

15 I have decided that the relevant sentencing purposes can be achieved by the imposition of a CCO. However, before I can impose a CCO, you need to consent to it. If I cannot impose a CCO because you do not consent, then the only adequate sentencing option available to me would involve a term of imprisonment.

16 The CCO I intend to impose will be of two years duration. The parties agreed that there was no need for conditions relating to drug or alcohol treatment, mental health, or offending behaviour. I will now explain the conditions that would be included in a CCO, so you can decide whether or not you consent.

17 The mandatory conditions are:

(a) that you must attend the community correctional service within two clear working days after the commencement of the order.

(b) You must not commit another offence for which you could be imprisoned during the time that the order is in force;

(c) You must comply with any obligation or requirement prescribed by regulation 15 of the Sentencing Regulations 2021;

(d) You must report to, and receive visits from The Secretary or their delegate

(e) You must report to the Community Corrections Centre within two clear working days of the order starting;

(f) You must let a Community Corrections officer know within two clear working days of you changing your address or job;

(g) You must not leave Victoria without first getting permission to do so from the secretary;

(h) You must obey all lawful instructions from and directions of the Secretary or their delegate

18 In addition to the mandatory terms I intend to impose unpaid community work. You must perform 250 hours of unpaid community work over a period of 2 years as directed by the regional manager.

19 If you breach the CCO by committing further offences, you can be charged and a sentence of imprisonment is one of the options that can be imposed for that breach. You can also be re-sentenced for the offence which is currently before me. That might include imposing a term of imprisonment. I will make an order that any breach by you of this CCO be brought back before me.

Orders

20 Had you not pleaded guilty, I would have imposed a sentence of 18 months' imprisonment, with a non-parole period of 12 months.

21 Instead, I convict you and impose a CCO as outlined earlier.

22 I also make the restitution order to which you have consented.